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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 001370

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TAGS: [KCOR](#) [EAID](#) [PGOV](#) [NP](#) [GON](#)  
SUBJECT: NEPAL: ANTI-CORRUPTION AGENCY IN TROUBLE IN FIGHT  
AGAINST BIG BUSINESS

REF: KATHMANDU 1221

Classified By: Ambassador Michael E. Malinowski for reasons 1.5 (b,d).

1. (C) Summary. The head of Nepal's anti-corruption agency, CIAA Commissioner Surya Nath Upadhyaya, met with the Ambassador on July 18 to discuss the agency's investigation into allegations of corruption within Nepal's two government-owned banks. The cases involve at least five of the country's largest business houses and many high-level bank officials. As a result, the CIAA is coming under increasing pressure from the political elite, banking and business sectors and the media not to prosecute these cases. Commissioner Upadhyaya appealed to the Embassy, and the donor community at large, for its public support of the CIAA's efforts. Post plans to provide behind-the-scenes advocacy for this vanguard organization active in promoting government transparency. End Summary.

2. (C) On July 18, Ambassador Malinowski met with head Commissioner Surya Nath Upadhyaya of the Commission to Investigate Abuses of Authority (CIAA). USAID Country Director and PolOff also attended the meeting. Commissioner Upadhyaya explained that he had requested the meeting not only to provide the Ambassador with an update on the CIAA's pending cases, but also to seek the Embassy's moral and financial support, particularly in the CIAA's investigation and prosecution of bank cases (versus property cases) involving some of Nepal's most influential families.

3. (C) Nepal Bank Limited (NBL) and Rastriya Banya Bank (RBB), both government-owned banks, dominate the banking sector in Nepal; approximately 60 percent of loans and 70 percent of deposits nation-wide reside in these two banks. Due to lack of sufficient capital, two years ago both banks stopped issuing new loans. After pressure from the World Bank, in 2001 the Government of Nepal agreed to privatize the banking industry, and subsequently foreign consultants were brought in to restructure NBL and RBB. In early 2003, the foreign consultants brought to the CIAA's attention evidence of corruption in the handling of bank loans to private entities. At least five of Nepal's 25 big business houses have been implicated in these allegations, said Upadhyaya.

4. (C) After six months of work, Upadhyaya confided, the CIAA has been able to complete investigations into several bank cases and has found clear evidence of corruption. The basis for the original loan awards was "shaky," he said. Moreover, Upadhyaya stated that the loans were extended again and again so that the original loan amount was doubled and "nothing was ever repaid." He specifically mentioned the case involving the Amatya family, who own and operate the five-star Fulbari Hotel in Pokhara, 180 kilometers west of Kathmandu. Nepal Bank Limited had awarded the original loan for the construction and initial operation of the Fulbari Hotel. After unsuccessful attempts by NBL to extract payments from the Amatya family for the loan, the bank sought to go after the family's other assets. However, the other assets are protected through incorporation elsewhere, Upadhyaya said. After evaluating the hotel's assets using standards formulated by the Asia Development Bank, Upadhyaya explained, a clear case of bad investment, misrepresentation and fraud was discovered. Moreover, he said, there is evidence that bank officials involved in granting the loans knew that the loans would not be repayed. Upadhyaya also suggested that money for the Fulbari hotel was siphoned off for use in other projects not covered by the loan.

5. (C) Because these bank cases involve Nepal's most influential families, the CIAA is under pressure from some political influentials, the banking and business sectors and the media not to prosecute. Upadhyaya reported that in early July, the Federation of Nepal Chambers of Commerce and Industry (FNCCI) staged a demonstration of at least fifty people in front of the CIAA building to protest the CIAA's involvement in reviewing and investigating loans. The media also have been at the forefront; Upadhyaya expressed his suspicions that several recent articles in the Telegraph and People's Review suggesting that the CIAA should not be involved in bank cases had been paid for and planted by some of the wealthy families implicated in the cases. Upadhyaya

also indicated that some of the defendants in these cases were at various times the Ministers under whom he used to work.

16. (C) The Commissioner concluded the meeting with an appeal to the Ambassador for his public support of the CIAA's role in prosecuting bank cases. Upadhyaya said that without the support of the international community, the CIAA "alone could not make a difference." He even suggested that he had been subject to threats, saying "I'm ready to risk my life, but without your help, I won't get anywhere." Upadhyaya also requested U.S. assistance in training CIAA prosecutors in investigation techniques as well as the provision of equipment, such as lie detectors.

17. (C) Comment. The CIAA has taken an increasingly tough stance on prosecuting high-level corruption cases. Commissioner Upadhyaya is a strong leader and has taken an impartial and professional approach in the investigation and prosecution of corruption. However, Nepal's highly politicized and partisan civil society, combined with ongoing political instability, has significantly challenged the CIAA's effectiveness. All the large business houses are involved directly in politics and well-connected within the political class. Likewise, local publishing houses are subject to the political persuasion of their owners. To counter this pressure, Post believes CIAA needs increased international support. Post plans to provide behind-the-scenes advocacy as well as a coordinating role in pushing for more public support of the CIAA by the diplomatic and INGO community in Nepal. End Comment.  
MALINOWSKI